REMARKS

It is respectfully submitted that a *prima facie* rejection is not made out. Moreover, the rejection is unclear. The combination of a Section 102 rejection involving two references is, on its face, non-statutory. To the extent that it is contended that it is one of the two recited references which constitutes the basis for anticipation, it would seem to be impossible since neither reference is pointed to as sufficient in and of itself.

If that were not enough, the rejection further admits that "Although Herbst et al. does not explicitly identify read or write requests as being demand requests, it is considered obvious to one of ordinary skill in the art that such requests or defined as such within the contents of Applicant's disclosure, thereby considered equivalent for purposes of examination."

To the contrary, the claims distinguish actions taken with respect to demand and non-demand requests. Since the reference fails to even distinguish between the two or identify the difference between the two, then it is impossible for the reference to anticipate or render obvious the claimed invention. Namely, the reference does not distinguish between demand and non-demand requests, so it cannot possibly determine if there is a pending request that is a demand request to the cached sub-system, but, if not, execute a non-demand request. No such checking or determination is ever done in the reference and, therefore, the reference cannot possible meet the claimed invention.

To suggest that because the Applicant's disclosure teaches demand versus non-demand requests that this somehow renders the claimed invention obvious, turns the patent law on its head. Namely, the applicant's own disclosure cannot be used to substantiate a rejection.

Instead, the rejection is non-statutory because it relies on only one reference and attempts to use the applicant's own disclosure to somehow substantiate a rejection. However, the purported substantiation from the applicant's disclosure, namely, the idea of a demand request, still fails to meet the claimed limitations.

Because the rejection is non-statutory, inadequate as a Section 102 rejection, a single reference Section 103 rejection is, on its face, non-statutory, and, further, because of the attempt to use the applicant's own disclosure to render obvious the claimed invention, it is submitted that the rejection should be reconsidered.

Respectfully submitted,

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